

NANA Regional Corporation, Inc.

December 22, 2008

Randy Bates, Director
DNR Division of Coastal and Ocean Management
PO Box 111030
Juneau, Alaska 99811-1030

Re: Comments on Draft ACMP Statute Changes

Dear Mr. Bates:

This letter provides NANA Regional Corporation's (NANA) comments on the proposed Alaska Coastal Management Program (ACMP) statute changes recently circulated by the Department of Natural Resources (DNR). NANA is an important employer and private landowner in Northwest Alaska. It is vital that we bring jobs and income to help our people, and to do so in a manner that complements the critical subsistence practices of our region. We believe the Coastal Zone Program, with appropriate laws and implementation can become part of the regulatory program that efficiently protects the environment in a manner that allows and encourages appropriate resource development.

Over the past few months, we have listened to the agency presentations and coastal district critiques. We have a number of comments on the proposed statute.

Coastal District Frustration. It is obvious that there is enormous amount of frustration among the coastal districts that policies that incorporate local conditions into the process without duplicating state standards have been whittled down by the Department of Natural Resources (DNR) over the last few years. The goal should be to use the program to incorporate local conditions, values, and knowledge into the state permitting system in a manner consistent with state law and regulations. It appears from the discussion that the districts and local governments feel strongly that limitations of the current program do not allow that to occur.

The proposal put forth by DNR has some significant advantage to the district in this regard by modifying or eliminating various limitations of current law. At the coastal district gathering two weeks ago in Anchorage, DNR staff was quite clear that their interpretation of the proposed law would result in the maintenance of all currently approved district policies, plus many that were previously disapproved would be allowed. If so, the proposed revision, if appropriately implemented, could help alleviate coastal district frustration, and strengthen local regulation of coastal resources.

Limitation on Authority. ACMP cannot legally expand the statutory jurisdiction or authority of a unit of government; that role is constitutionally reserved for the legislature. While this was a significant topic of discussion during the meetings, we believe the answer is quite clear and is a critical point. Changing the statutory authority of an administrative agency is solely a decision for the legislature.

by EPA) to calculate compliance with water quality standards cannot be superseded by an inconsistent method suggested by a locality; local districts and DF&G cannot approve different methods culvert placement. Thus, local policies that modify state-wide standard must work with the agency administering that standard. The proposed statute appropriate recognizes this problem. If it is administered in an appropriate and flexible manner, the requirement for a district to work with the agency administering the program could result in locally appropriate policies. However, if administered with little regard to the district needs, it could eliminate useful local policies and continue the frustration currently felt by the local groups.

Interaction with Federal Agency Programs. The same discussion noted above applies to federal regulatory programs. However, the districts correctly point out that it may be impossible for a local district to get the approval of a federal agency for their policy. Alaska representatives of federal agencies simply lack the mandate or sometimes even the authority to respond to local districts. Therefore, the state should retain the authority to approve or disapprove of a local enforceable policy that modifies a federal regulatory program, after consultation with that federal agency.

State-wide Air and Water Standards. The ACMP should not have authority to change state-wide air and water standards. Changes to state-wide water quality or air-quality standards that would cause a duplication or, worse, an inconsistency with ADEC's regulatory regime would undermine the ACMP goal of streamlining resource management. It makes no sense for Alaska's water quality standards to differ according to the locality within the state. Such changes could not help but confuse resource management in Alaska.

Thank you for the opportunity to comment. We look forward to working with you in the months ahead.

Sincerely,



Rosie Barr
Resource Manager